

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Ultima Circuits, LLC
4361 Pell Drive
Sacramento, California 95838

ID No: CAD 983 576 760

Respondent.

Docket HWCA 20040428

CONSENT ORDER

Health and Safety Code
Section 25187

INTRODUCTION

The California Department of Toxic Substances Control (Department) and Ultima Circuits, LLC, (Respondent) enter into this Consent Order (Order) and agree as follows:

1.1. Site. Respondent generates, handles, treats, stores, and/or disposes of hazardous waste at the following site: 4361 Pell Drive in Sacramento, California (Site).

1.2. Inspection. The Department inspected the Site on January 7, 2004, and March 9, 2005.

1.3. Permit/Interim Status. Respondent generates the following hazardous waste: ignitable wastes, spent hazardous rinse waters containing cyanide and dissolved metals from electroplating operations (e.g., lead, copper, silver), spent corrosive etching solution, spent corrosive cleaning solutions, used oil, and hazardous metal-bearing residues from waste water treatment. Respondent treats the following hazardous wastes onsite under a Permit by Rule: Hazardous metal-bearing rinse waters from

electroplating operations and hazardous spent corrosive cleaning and etching solutions containing dissolved metals.

1.4. Jurisdiction. Health and Safety Code section 25187, authorizes the Department to order action necessary to correct violations and assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.5. Full Settlement. By their respective signatures below, the Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. This Order shall constitute full settlement of the violations alleged below. By agreeing to this Order, the Department does not waive any right to take further enforcement actions within its jurisdiction and involving either the Respondent(s) or the Site, except to the extent provided in this Order.

1.6. Hearing. Respondent waives any and all rights to a hearing in this matter.

1.7. Admissions. Respondent admits the violations described below.

VIOLATIONS ALLEGED

2. The Department alleges the following violations:

2.1. (a) Respondent violated Health and Safety Code section 25202, subdivision (a), and California Code of Regulations, title 22, section 66265.193 in that Respondent failed to provide secondary containment for eight hazardous waste treatment tanks located outdoors, including an underground hazardous waste tank

system, as well as a floor in the plating process area that was being used as a hazardous waste collection tank.

(b) Respondent violated Health and Safety Code section 25202, subdivision (a), and California Code of Regulations, title 22, section 66265.31, in that, Respondent discharged plating process tank contents, that were hazardous wastes, directly onto the floor of the facility where the wastes then flowed into a drain. At the time of the January 7, 2004 inspection, that waste flowed into an underground tank that lacked secondary containment and an adequate tank assessment.

(c) Respondent violated Health and Safety Code section 25202, subdivision (a), California Code of Regulations, title 22, sections 66265.191 and 66265.192, in that Respondent has operated tanks comprising hazardous waste treatment units and failed to prepare a certified written hazardous waste tank assessment for nine (including the underground tank) of the hazardous waste treatment tanks and associated ancillary equipment, as well as a floor in the plating process area that was being used as a hazardous waste collection tank.

2.2. Respondent violated Health and Safety Code section 25202, subdivision (a), and California Code of Regulations, title 22, section 66264.175, in that Respondent failed to prepare a required certified written assessment showing that six containers used to treat hazardous corrosive waste are equipped with adequate secondary containment.

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SCHEDULE FOR COMPLIANCE

3. Respondent shall comply with the following:

3.1.1. On February 8 and February 22, 2005, Respondent prepared and submitted to the Department a certified tank system assessment for all above ground hazardous waste tank systems pursuant to California Code of Regulations, title 22, section 66265.192. However, the Department reinspected the Site on March 29, 2005 and determined that the Respondent was using a floor in the plating process area as a hazardous waste collection tank. Since that inspection, Respondent has stated that Respondent has ceased using the floor in the plating process area as a tank, and has redesigned the hazardous waste collection system.

The original tank system assessment submitted by Respondent in February 2005 did not contain an assessment of any hazardous waste tanks or piping installed after Respondent ceased using the floor of the plating process area as a hazardous waste tank. Therefore, Respondent must revise the written and certified tank system assessment that was originally submitted to the Department in February 2005, and include assessment of all new hazardous waste tanks or piping installed since Respondent ceased using the floor of the plating process area as a hazardous waste tank. Respondent shall submit the revised, certified tank system assessment to the Department within 60 days of the date of this Order.

Regarding the underground hazardous waste tank system owned and operated by Respondent, Respondent has worked to achieve closure of that system under supervision of the Sacramento County Environmental Management Department, the

local Certified Unified Program Agency (CUPA). Within 30 days of receipt of certification of closure from the CUPA, Respondent shall submit to the Department a true and correct copy of such certification.

3.1.2. On May 26, 2004, Respondent submitted a statement to the Department that the containers previously used to treat hazardous waste are no longer being used to treat hazardous waste as described in the violation in section 2.2 of this Order. In the future, the Respondent shall not use any containers to treat hazardous waste under a Permit by Rule unless the Respondent provides adequate secondary containment for the containers, and prepares a certified written assessment showing that all containers used to treat hazardous waste are equipped with adequate secondary containment pursuant to California Code of Regulations, title 22, section 66264.175. No further action is required on the part of Respondent at this time with respect to this violation.

3.1.4. Respondent shall make all payments at the time and in accord with any and all other conditions set forth in section 5 (Penalty) below.

3.2. Submittals. All submittals from Respondent pursuant to this Order shall be sent simultaneously to:

Mr. Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826

and

Mr. Dennis Green
Hazardous Materials Program Manager
Sacramento County Environmental Management Department
8475 Jackson Road, Suite 240
Sacramento, California 95842

3.3. Communications. All approvals and decisions of the Department made regarding submittals and notifications shall be communicated to Respondent in writing by the Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

3.4. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

3.5. Compliance with Applicable Laws. Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

3.6. Endangerment during Implementation. In the event that the Department determines that any circumstance or activity (whether or not pursued in compliance with this Order) creates an imminent or substantial endangerment to the health or welfare of

people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

3.7. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

3.8. Site Access. Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any other agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may have by operation of any law or otherwise. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons

to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

3.9. Sampling, Data, and Document Availability.

3.9.1. Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf, in any way pertaining to work undertaken pursuant to this Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order.

3.9.2. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order.

3.9.3. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

3.10. Government Liabilities. The Department shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent, or related parties specified in section 4.2, in carrying out activities pursuant to this Order,

nor shall the Department be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Order.

3.11. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

3.12. Extension Requests. If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

3.13. Extension Approvals. If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

OTHER PROVISIONS

4.1. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to civil penalties and/or damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188, and other applicable provisions of law.

4.2. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners,

and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.3. Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except by a writing duly executed by the Department and specifically referencing this document by title and docket number, or as otherwise provided in this Consent Agreement.

4.4. Privileges. Nothing in this Consent Agreement shall be construed to require any party to waive any privilege, including without limitation, attorney-client and attorney work-product. However, the assertion of any privilege shall not relieve any party of its obligations under this Order.

PENALTY

5.1. Respondent shall pay the Department the total sum of \$200,000 (the "Settlement Amount"), which includes \$8,250 as reimbursement of the Department's costs incurred in connection with this matter.

5.2. Payment of \$100,000 of the Settlement Amount is due in twelve equal payments beginning on the first day of the first calendar month following the effective date of this Order in the amount of \$8,724.29, principal and interest, and continuing each calendar quarter thereafter until paid in full.

5.3. If Respondent shall fail to pay, by the date due, any sum set forth in section 5.2, above, the total Settlement Amount, minus credit for all sums paid, shall then be

immediately due and owing, without further notice. If any amount of the Settlement Amount becomes due pursuant to this paragraph, Respondent further agrees to pay all costs incurred by the Department in pursuing collection, including attorney's fees.

5.4. If Respondent shall have been alleged to have committed one or more Class One violation(s) (as defined by California Code of Regulations, title 22, section 66260.10) prior to the due date of the last payment set forth above, and said violation(s) ("Subsequent Violation(s)") is (are), at any time, sustained by operation of law, agreement, or the decision of any person authorized by law to sustain a violation, the total Settlement Amount, minus credit for all sums paid, shall then be immediately due and owing, without further notice. Nothing in this paragraph is intended to prohibit Respondent from exercising its right to appeal a finding of Subsequent Violation(s), if any, under the law, and any such time to file such an appeal must run before the provisions of this paragraph are exercised.

5.5. In the event that no violation has been alleged and sustained as set forth in section 5.4 above, and all payments required to be paid as set forth in section 5.2 have been timely paid, then the remaining \$100,000 of the Settlement Amount shall be forgiven.

5.6. The sums required to be paid under section 5.2 above shall be reduced by \$5,000 if, and only if, Respondent sends both Mr. Greg Gerdes and Mr. John Scanlan to the California Compliance School, Modules I - V, and submits to the Department, not later than 180 days from the effective date of this Order, Certificates of Satisfactory

Completion thereof. If the reduction specified in this paragraph occurs, said reduction shall be made from the last payment(s) set forth in section 5.2 above.

5.7. In the event that the above Certificates of Satisfactory Completion are not both received by the Department on or before 180 days from the effective date of this Order, all sums required to be paid under section 5.2 above shall be due and payable as set forth therein.

5.8. Respondent's checks shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the checks shall be sent to:

Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826

5.9. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

EFFECTIVE DATE

6. The effective date of this Order is the date it is signed by the Department.

Dated: November 7, 2005

Original Signed by Gregory S. Gerdes
Respondent (Signature)

Gregory S. Gerdes / Vice President
Respondent (Printed Name and Title)

Dated: November 23, 2005

Original signed by Kim Wilhelm for Charles A. McLaughlin
Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control

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